

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

THE STATE OF TEXAS

VS.

LEARJET 31A BEARING SERIAL
NUMBER 080 AND ASSIGNED AND
DISPLAYING REGISTRATION/TAIL
NUMBER N260RC

§
§
§
§
§
§
§

CASE NO. 9:20-cv-00172-MJT

**SUPPLEMENT TO DEFENDANT'S MOTION TO DISMISS
PURSUANT TO RULE 12(b)(6)**

TO THE HONORABLE JUDGE OF SAID COURT:

The State's pleading is clear that the sole basis for its forfeiture action is that the aircraft is owned through a non-citizen trust. The emails attached as **Exhibit A** recently produced by the State underscore and confirm that the State alleges no other basis for forfeiture. These emails also confirm that Polk County law enforcement intends to seize "MANY" aircraft legally and legitimately owned through non-citizen trusts in an unlawful attempt to pursue forfeiture actions to raise revenue at auction.

The non-citizen trust ownership structure is entirely legal and regulated by the FAA. Aircraft ownership through a non-citizen trust is neither a criminal act, nor grounds for civil forfeiture. Accordingly, the State has failed to state a claim upon which relief can be granted, and the Court should dismiss this action pursuant to Rule 12(b)(6) and order the aircraft to be released immediately.

Respectfully submitted,

MARTIN & DROUGHT, P.C.

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By: 

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2020, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Tommy L. Coleman
Assistant Criminal District Attorney
Polk Co. District Attorney's Office
101 West Mill Street, Ste. 247
Livingston, TX 77351
Email: tcoleman@polkcountyda.com



GERALD T. DROUGHT

MATHIS B. BISHOP

beau.price@co.polk.tx.us <beau.price@co.polk.tx.us>

10/27/2020 2:12 PM

FW: RE: Information

To Tommy Coleman <tc Coleman@polkcountyda.com>

-----Original Message-----

From: beau.price@co.polk.tx.us

Sent: Tuesday, March 31, 2020 8:26am

To: [Thomas McMenamin](#)

Subject: RE: Information

Hello Tom,

Hope yall are doing well with all this virus crap. We got delayed on our 2 Brownsville jets, but looks like we may be ready to physically seize them both as early as next week. Can you send me over a document with your letterhead, bonding info, and some type of rough price agreement, something to put us in the ballpark. I want to get it approved prior to getting these seizures signed. The jets are a 1993 learjet31 N260RC and 1990 Cessna 560 Citation Jet N569LM. neither were "dope" jets, both used for personal transport, so they don't look gutted out. This price should include picking them up with us in Brownsville, storing them at your facility, any maintenance, and auction fee.

Thanks again, be safe,

Beau Price

CDR SETEIG

15109 Heathrow Forest Parkway, Suite 170, Houston, TX 77032

-----Original Message-----

From: [Thomas McMenamin](#)

Sent: Wednesday, February 26, 2020 9:41am

To: beau.price@co.polk.tx.us

Subject: Information



Morning Beau,

As a follow up how formal an agreement do you need? Any ideas that will keep the powers to be happy would be greatly appreciated. Below is the contact information for me and address, etc.

Best Regards,

Tom

Thomas J. McMenamin IV
President

RISK MONDIAL, INVESTIGATIONS & RECOVERY
1001 W. Cypress Creek Road
Suite #103
Ft. Lauderdale, Florida 33309-1947



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Please consider the environment before printing this.

beau.price@co.polk.tx.us <beau.price@co.polk.tx.us>

10/27/2020 2:16 PM

FW: RE: RE: Texas question

To Tommy Coleman <tcoleman@polkcountyda.com>

-----Original Message-----

From: beau.price@co.polk.tx.us
Sent: Tuesday, July 7, 2020 9:35am
To: [Thomas McMenamin](#)
Cc: 'Paul Mack'
Subject: RE: RE: Texas question

Good to hear from you Tom!

I will try to work the Harris County jet in a manner so that it can be stored in Miami, but ultimately it will be up to the prosecutor. Polk Co. hasn't seized one before, so I think they are being very cautious with these first 2. We anticipate MANY more through them, so maybe we can adapt the process as we go.

I hope to hear something today in regards to the actual day of seizure, hoping it's this week.

Be safe,
Beau

-----Original Message-----

From: [Thomas McMenamin](#)
Sent: Monday, July 6, 2020 9:56am
To: beau.price@co.polk.tx.us
Cc: 'Paul Mack'
Subject: RE: RE: Texas question

No Problem Beau, I have several places in Texas, but as stated, I would rather bring the Houston plane here if possible, I know the others you want to stay in Texas

Best Regards,

Tom

Thomas J. McMenamin IV
President

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Please consider the environment before printing this.

From: beau.price@co.polk.tx.us [mailto:beau.price@co.polk.tx.us]
Sent: Tuesday, June 30, 2020 9:02 PM
To: Thomas McMenamin
Cc: Paul Mack
Subject: FW: RE: Texas question